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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LEEMANUEL WEILCH,
Plaintiff,

vs.

ARA A. TCHAGHLASSIAN, AS
TRUSTEE OF THE 2005 AMENDMENT
AND RESTATEMENT OF THE ARA A.
TCHAGHLASSIAN REVOCABLE
TRUST; and DOES 1 to 10,
Defendants.

Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR
VIOLATION OF:

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT, CAL CIV. CODE §§ 51 -
52 et seq.;
3. CALIFORNIA'S DISABLED
PERSONS ACT, CAL CIV. CODE §54 et
seq.
4. CALIFORNIA'S UNFAIR
COMPETITION ACT, CAL BUS & PROF
CODE § 17200, et seq.
5. NEGLIGENCE

Plaintiff LEEMANUEL WEILCH ("Plaintiff") complains of Defendants ARA A. TCHAGHLASSIAN, AS TRUSTEE OF THE 2005 AMENDMENT AND RESTATEMENT OF THE ARA A. TCHAGHLASSIAN REVOCABLE TRUST; and DOES 1 to 10 ("Defendants") and alleges as follows:

JURISDICTION AND VENUE

1
2 1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for
3 violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

4 2. Pursuant to pendant jurisdiction, attendant and related causes of action,
5 arising from the same nucleus of operating facts, are also brought under California law,
6 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,
7 54, 54., 54.3 and 55.

8 3. Venue is proper in this court pursuant to 28 USC §1391(b). The real
9 property which is the subject of this action is located in this district, Los Angeles County,
10 California, and that Plaintiff's causes of action arose in this district.

PARTIES

11
12 4. Plaintiff is a California resident with a physical disability with substantial
13 limitation in his ability to walk. Plaintiff suffers from complete paraplegia due to a spinal
14 cord injury and requires the use of a wheelchair at all times when traveling in public.

15 5. Defendants are, or were at the time of the incident, the real property owners,
16 business operators, lessors and/or lessees of the real property for a tire shop ("Business")
17 located at or about 909 Long Beach Blvd., Long Beach, California.

18 6. The true names and capacities, whether individual, corporate, associate or
19 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,
20 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
21 Court to amend this Complaint when the true names and capacities have been
22 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such
23 fictitiously named Defendants are responsible in some manner, and therefore, liable to
24 Plaintiff for the acts herein alleged.

25 7. Plaintiff is informed and believes, and thereon alleges that, at all relevant
26 times, each of the Defendants was the agent, employee, or alter-ego of each of the other
27 Defendants, and/or was acting in concert with each of the other Defendants, and in doing
28

1 the things alleged herein was acting with the knowledge and consent of the other
 2 Defendants and within the course and scope of such agency or employment relationship.

3 8. Whenever and wherever reference is made in this Complaint to any act or
 4 failure to act by a defendant or Defendants, such allegations and references shall also be
 5 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
 6 and severally.

7 **FACTUAL ALLEGATIONS**

8 9. In or about June of 2022, Plaintiff visited the Business. The Business is a tire
 9 shop business establishment, which is open to the public, and is a place of public
 10 accommodation and affects commerce through its operation. Defendants provide parking
 11 spaces for customers.

12 10. While attempting to enter the Business during each visit, Plaintiff personally
 13 encountered a number of barriers that interfered with his ability to use and enjoy the
 14 goods, services, privileges, and accommodations offered at the Business. To the extent
 15 of Plaintiff's personal knowledge, the barriers at the Business included, but were not
 16 limited to, the following:

- 17 a. Defendants failed to comply with the federal and state standards for
 18 the parking space designated for persons with disabilities. Defendants
 19 failed to post required signage such as "Van Accessible" and
 20 "Minimum Fine \$250."
- 21 b. Defendant failed to maintain the parking space designated for persons
 22 with disabilities to comply with the federal and state standards.
 23 Defendants failed to maintain the paint on the ground as required.
- 24 c. Defendants failed to maintain the parking space designated for
 25 persons with disabilities to comply with the federal and state
 26 standards. Defendants failed to maintain the mark on the space with
 27 the International Symbol of Accessibility.

1 d. Defendant failed to maintain the parking space designated for persons
2 with disabilities to comply with the federal and state standards.
3 Defendants failed to provide the access aisles with level surface
4 slopes.

5 11. These barriers and conditions denied Plaintiff the full and equal access to the
6 Business. Plaintiff wishes to patronize the Business. However, Plaintiff is deterred from
7 visiting the Business because his knowledge of these violations prevents him from
8 returning until the barriers are removed.

9 12. Based on the violations, Plaintiff alleges, on information and belief, that
10 there are additional barriers to accessibility at the Business after further site inspection.
11 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-
12 Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

13 13. In addition, Plaintiff alleges, on information and belief, that Defendants
14 knew that particular barriers render the Business inaccessible, violate state and federal
15 law, and interfere with access for the physically disabled.

16 14. At all relevant times, Defendants had and still have control and dominion
17 over the conditions at this location and had and still have the financial resources to
18 remove these barriers without much difficulty or expenses to make the Business
19 accessible to the physically disabled in compliance with ADDAG and Title 24
20 regulations. Defendants have not removed such barriers and have not modified the
21 Business to conform to accessibility regulations.

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

24 15. Plaintiff incorporates by reference each of the allegations in all prior
25 paragraphs in this complaint.

26 16. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
27 shall be discriminated against on the basis of disability in the full and equal enjoyment of
28 the goods, services, facilities, privileges, advantages, or accommodations of any place of

1 public accommodation by any person who owns, leases, or leases to, or operates a place
2 of public accommodation. *See* 42 U.S.C. § 12182(a).

3 17. Discrimination, *inter alia*, includes:

- 4 a. A failure to make reasonable modification in policies, practices, or
5 procedures, when such modifications are necessary to afford such
6 goods, services, facilities, privileges, advantages, or accommodations
7 to individuals with disabilities, unless the entity can demonstrate that
8 making such modifications would fundamentally alter the nature of
9 such goods, services, facilities, privileges, advantages, or
10 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 11 b. A failure to take such steps as may be necessary to ensure that no
12 individual with a disability is excluded, denied services, segregated or
13 otherwise treated differently than other individuals because of the
14 absence of auxiliary aids and services, unless the entity can
15 demonstrate that taking such steps would fundamentally alter the
16 nature of the good, service, facility, privilege, advantage, or
17 accommodation being offered or would result in an undue burden. 42
18 U.S.C. § 12182(b)(2)(A)(iii).
- 19 c. A failure to remove architectural barriers, and communication barriers
20 that are structural in nature, in existing facilities, and transportation
21 barriers in existing vehicles and rail passenger cars used by an
22 establishment for transporting individuals (not including barriers that
23 can only be removed through the retrofitting of vehicles or rail
24 passenger cars by the installation of a hydraulic or other lift), where
25 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 26 d. A failure to make alterations in such a manner that, to the maximum
27 extent feasible, the altered portions of the facility are readily
28 accessible to and usable by individuals with disabilities, including

1 individuals who use wheelchairs or to ensure that, to the maximum
 2 extent feasible, the path of travel to the altered area and the
 3 bathrooms, telephones, and drinking fountains serving the altered
 4 area, are readily accessible to and usable by individuals with
 5 disabilities where such alterations to the path or travel or the
 6 bathrooms, telephones, and drinking fountains serving the altered
 7 area are not disproportionate to the overall alterations in terms of cost
 8 and scope. 42 U.S.C. § 12183(a)(2).

9 18. Where parking spaces are provided, accessible parking spaces shall be
 10 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every
 11 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in
 12 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA
 13 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall
 14 be van parking space. 2010 ADA Standards § 208.2.4.

15 19. Under the ADA, the method and color of marking are to be addressed by
 16 State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California
 17 Building Code (“CBC”), the parking space identification signs shall include the
 18 International Symbol of Accessibility. Parking identification signs shall be reflectorized
 19 with a minimum area of 70 square inches. Additional language or an additional sign
 20 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A
 21 parking space identification sign shall be permanently posted immediately adjacent and
 22 visible from each parking space, shall be located with its centerline a maximum of 12
 23 inches from the centerline of the parking space and may be posted on a wall at the
 24 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

25 20. Moreover, an additional sign shall be posted either in a conspicuous place at
 26 each entrance to an off-street parking facility or immediately adjacent to on-site
 27 accessible parking and visible from each parking space. The additional sign shall not be
 28 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in

1 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in
2 designated accessible spaces not displaying distinguishing placards or special license
3 plates issued for persons with disabilities will be towed always at the owner’s expense...”
4 *See* CBC § 11B-502.8, *et seq.*

5 21. Here, Defendants failed to provide signs stating “Minimum Fine \$250” and
6 “Van Accessible.”

7 22. For the parking spaces, access aisles shall be marked with a blue painted
8 borderline around their perimeter. The area within the blue borderlines shall be marked
9 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting
10 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall
11 be painted on the surface within each access aisle in white letters a minimum of 12 inches
12 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §
13 11B-502.3.3.

14 23. Here, Defendants failed to properly maintain the access aisles as there were
15 no “NO PARKING” and faded blue lines painted on the parking surface.

16 24. The surface of each accessible car and van space shall have surface
17 identification complying with either of the following options: The outline of a profile
18 view of a wheel chair with occupant in white on a blue background a minimum 36” wide
19 by 36” high (914 mm x 914 mm). The centerline of the profile view shall be a maximum
20 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the
21 length of the parking space and its lower side or corner aligned with the end of the
22 parking space length or by outlining or painting the parking space in blue and outlining
23 on the ground in white or a suitable contrasting color a profile view of a wheel chair with
24 occupant. *See* CBC § 11B-502.6.4, *et seq.*

25 25. Here, Defendants failed to maintain the mark on the surface with the
26 International Symbol of Accessibility as required.

27 26. Under the 1991 Standards, parking spaces and access aisles must be level
28 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.

1 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles
 2 shall be part of an accessible route to the building or facility entrance and shall comply
 3 with 4.3. Two accessible parking spaces may share a common access aisle. Parked
 4 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces
 5 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all
 6 directions. 1991 Standards § 4.6.3.

7 27. Here, the access aisle was not level with surface. Under the 2010 Standards,
 8 access aisles shall be at the same level as the parking spaces they serve. Changes in level
 9 are not permitted. 2010 Standards § 502.4. “Access aisles are required to be nearly level
 10 in all directions to provide a surface for transfer to and from vehicles.” 2010 Standards §
 11 502.4 Advisory. *Id.* No more than a 1:48 slope is permitted.

12 28. A public accommodation shall maintain in operable working condition those
 13 features of facilities and equipment that are required to be readily accessible to and usable
 14 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a). By failing to
 15 maintain the facility to be readily accessible and usable by Plaintiff, Defendants are in
 16 violation of Plaintiff’s rights under the ADA and its related regulations.

17 29. The Business has denied and continues to deny full and equal access to
 18 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be
 19 discriminated against due to the lack of accessible facilities, and therefore, seeks
 20 injunctive relief to alter facilities to make such facilities readily accessible to and usable
 21 by individuals with disabilities.

22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

24 30. Plaintiff incorporates by reference each of the allegations in all prior
 25 paragraphs in this complaint.

26 31. California Civil Code § 51 states, “All persons within the jurisdiction of this
 27 state are free and equal, and no matter what their sex, race, color, religion, ancestry,
 28 national origin, disability, medical condition, genetic information, marital status, sexual

1 orientation, citizenship, primary language, or immigration status are entitled to the full
 2 and equal accommodations, advantages, facilities, privileges, or services in all business
 3 establishments of every kind whatsoever.”

4 32. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,
 5 or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable
 6 for each and every offense for the actual damages, and any amount that may be
 7 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
 8 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
 9 attorney’s fees that may be determined by the court in addition thereto, suffered by any
 10 person denied the rights provided in Section 51, 51.5, or 51.6.

11 33. California Civil Code § 51(f) specifies, “a violation of the right of any
 12 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
 13 shall also constitute a violation of this section.”

14 34. The actions and omissions of Defendants alleged herein constitute a denial
 15 of full and equal accommodation, advantages, facilities, privileges, or services by
 16 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.
 17 Defendants have discriminated against Plaintiff in violation of California Civil Code §§
 18 51 and 52.

19 35. The violations of the Unruh Civil Rights Act caused Plaintiff to experience
 20 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory
 21 damages as specified in California Civil Code §55.56(a)-(c).

22 **THIRD CAUSE OF ACTION**

23 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

24 36. Plaintiff incorporates by reference each of the allegations in all prior
 25 paragraphs in this complaint.

26 37. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be
 27 entitled to full and equal access, as other members of the general public, to
 28 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,

1 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,
2 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
3 of transportation (whether private, public, franchised, licensed, contracted, or otherwise
4 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
5 places of public accommodations, amusement, or resort, and other places in which the
6 general public is invited, subject only to the conditions and limitations established by
7 law, or state or federal regulation, and applicable alike to all persons.

8 38. California Civil Code § 54.3(a) states, "Any person or persons, firm or
9 corporation who denies or interferes with admittance to or enjoyment of public facilities
10 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an
11 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for
12 the actual damages, and any amount as may be determined by a jury, or a court sitting
13 without a jury, up to a maximum of three times the amount of actual damages but in no
14 case less than one thousand dollars (\$1,000) and any attorney's fees that may be
15 determined by the court in addition thereto, suffered by any person denied the rights
16 provided in Section 54, 54.1, and 54.2.

17 39. California Civil Code § 54(d) specifies, "a violation of the right of an
18 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
19 constitute a violation of this section, and nothing in this section shall be construed to limit
20 the access of any person in violation of that act.

21 40. The actions and omissions of Defendants alleged herein constitute a denial
22 of full and equal accommodation, advantages, and facilities by physically disabled
23 persons within the meaning of California Civil Code § 54. Defendants have
24 discriminated against Plaintiff in violation of California Civil Code § 54.

25 41. The violations of the California Disabled Persons Act caused Plaintiff to
26 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
27 statutory damages as specified in California Civil Code §55.56(a)-(c).

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FOURTH CAUSE OF ACTION
UNFAIR COMPETITION ACT

42. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

43. Defendants have engaged in unfair competition, unfair or fraudulent business practices, and unfair, deceptive, untrue or misleading advertising in violation of the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

44. Defendants engage in business practices and policies that create systemic barriers to full and equal access for people with disability in violation of state and federal law.

45. The actions and omissions of Defendants are unfair and injurious to Plaintiff, a consumer of the Business' goods and services. As a result of Defendants' unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not provided with goods and services provided to other consumers. Plaintiff seeks relief necessary to prevent Defendants' continued unfair business practices and policies and restitution of any month that Defendants acquired by means of such unfair competition, including profits unfairly obtained.

FIFTH CAUSE OF ACTION
NEGLIGENCE

46. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

47. Defendants have a general duty and a duty under the ADA, Unruh Civil Rights Act and California Disabled Persons Act to provide safe and accessible facilities to the Plaintiff.

48. Defendants breached their duty of care by violating the provisions of ADA, Unruh Civil Rights Act and California Disabled Persons Act.

49. As a direct and proximate result of Defendants' negligent conduct, Plaintiff has suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;
2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;
3. Award of all reasonable restitution for Defendants' unfair competition practices;
4. Reasonable attorney's fees, litigation expenses, and costs of suit in this action;
5. Prejudgment interest pursuant to California Civil Code § 3291; and
6. Such other and further relief as the Court deems just and proper

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: August 17, 2022

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim
Jason J. Kim, Esq.
Attorneys for Plaintiff